

DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP Docket No. 2048-00 25 August 2000



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This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 5 May 1999 for four years at age 19. At that time, you extended your enlistment for additional period of 12 months to qualify for an enlistment bonus and were guaranteed yeoman school under the Seal Challenge Program. You acknowledged that any enlistment guarantees required that you remain fully qualified at all times; and meet all security, professional, military, physical, psychological and academic requirements of the options guaranteed. You were also advised that your eligibility would be rechecked during recruit training.

The record reflects that on 28 June 1999 you were interviewed and evaluated by the recruit mental health unit, which determined you had the symptoms of an oppositional defiant disorder with negativistic, hostile and defiant behavior which had caused significant impairment in academic, occupational or social functioning. An entry level separation was recommended since this disqualifying condition would affect your potential to adequately perform in a military environment.

On 29 June 1999 you were notified that administrative separation processing was being initiated by reason of convenience of the government due to a physical or mental condition, as evidenced by the diagnosis of an oppositional defiant disorder. You were advised of your procedural rights, declined to consult with counsel or submit a statement for consideration by the discharge authority, and waived the right to have your case reviewed by the general court-martial convening authority. Thereafter, the discharge authority directed an uncharacterized entry level separation. On 7 July 1999 you were so discharged by reason of erroneous enlistment and assigned an RE-4 reenlistment code.

Regulations authorize the assignment of an RE-4 reenlistment code to individuals who are discharged by reason of erroneous The Board noted your contention that during enlistment. classification interviews you were informed that you were no longer qualified for your school guarantee and when you insisted you were under the Seal Challenge Program, you were humiliated in front of your division and called a liar. The Board concluded that your contention is without merit since all guarantees are subject to completion of recruit training. Guarantees entered into at the time of enlistment do not prevent an individual from being discharged for a disqualifying condition that would have precluded enlistment had it been known at the time. The Board believes that the diagnosed oppositional defiant disorder provided sufficient justification to warrant assignment of an RE-The Board thus concluded that the 4 reenlistment code. reenlistment code was proper and no change is warranted. Accordingly, you application is denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER Executive Director